

IN THE COURT OF APPEAL OF TANZANIA

AT DAR ES SALAAM

(CORAM: Mustafa, J.A., Mwakasendo, J.A. and Makame, J.A.)

CRIMINAL APPEAL NO. 99 OF 1979

B E T W E E N

KABOTOLA NJOBELO APPELLANT

A N D

THE REPUBLIC RESPONDENT

(Appeal from the sentence of the High Court
of Tanzania at Mbeya) (Mwakibete, J.)
dated the 31st day of October, 1978,

in

Criminal Sessions Case No. 52 of 1978

JUDGMENT OF THE COURT

MUSTAFA, J.A.:

The appellant unlawfully caused the death of the deceased. The deceased at the material time was pregnant. The appellant and the deceased were husband and wife and in a quarrel the appellant grabbed hold of the deceased, the wife, and pushed her. She fell on a hoe, as a result of which her private parts were injured, rupturing her small intestines, as a result of which she died.

The appellant was wrong to have pushed the deceased, but it was unfortunate that she fell on a hoe, which must have had a sharp edge. The appellant perhaps did not realise that the hoe was near the deceased. The trial judge convicted the appellant of manslaughter and sentenced him to twelve (12) years' imprisonment. We are of the view that the sentence was clearly excessive in the circumstances. The appellant was sentenced on 31st October, 1978, and has already spent nearly three years in prison.

We reduce the sentence of imprisonment to such term
as will result in the appellant's immediate release.

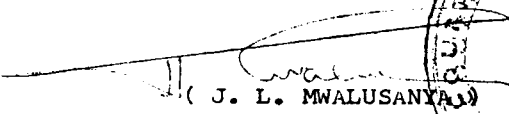
DATED at DAR ES SALAAM this 22nd day of July, 1981.

A. MUSTAFA
JUSTICE OF APPEAL

Y.M.M. MWAKASENDO
JUSTICE OF APPEAL

L. M. MAKAME
JUSTICE OF APPEAL

I certify that this is a true copy of the original.


(J. L. MWALUSANYA)
SENIOR DEPUTY REGISTRAR

